

REMARKS

Examiner's Rejections

The foregoing Amendment and remarks which follow are responsive to the Office Action mailed February 23, 2004. In that Office Action, the Examiner rejected Claims 1-3, 13-14 and 16 under 35 U.S.C. 102(e) as being anticipated by Warren (U.S. Patent No. 6,474,660 B1). In addition, Claims 5-6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Warren in view of Hatano et al. (U.S. Patent No. 3,870,330). Claim 15 was rejected under 35 U.S.C. 103(a) as being unpatentable over Warren in view of Gantz (U.S. Patent No. 2,950,924).

Summary of Applicant's Response

Applicant proposes to amend independent Claim 1 and dependent Claim 6 and add new independent Claim 17 and dependent Claims 18-25 to clarify the invention and incorporate subject matter which is believed to be allowable over the relevant prior art references cited thereagainst. The proposed amendments are not believed to add new matter or necessitate further searching.

The Present Invention in Amended Base Claim 1 and New Base Claim

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Applicant has amended base Claim 1 and added base Claim 17 which are believed to incorporate features that are novel over the relevant prior art reference, namely, Warren.

Amended base Claim 1 recites a snow scooter which features "a forward pitch angle [that] is angularly adjustable to a chosen orientation ... [and] ... non-movably securable following angular adjustment thereof into the chosen orientation". New base Claim 17 is a slightly broader version of Claim 1. Claims 18-25 are similar in scope to currently pending Claims 2-3, 5-6 and 13-16, respectively.

As will be shown below, Applicant respectfully submits that the non-movable securement of the forward pitch angle into the chosen orientation is not taught, suggested or even implied by the prior art of relevance, namely, Warren.

The Standard for 35 U.S.C. §102 Rejection

As is well known, anticipation cannot be established unless a single prior art reference discloses each and every element of the claimed invention. Structural Rubber Co. v. Park Rubber Co., 749 F.2d 707, 223 U.S.P.Q. 1264 (Fed. Cir. 1984). Further, for anticipation to apply, all of the claimed elements must be found in exactly the same situation and united in the same way

to perform the identical function in a single unit of the prior art. (See, e.g., Studiengesellschaft Kohle m.b.H. v. Dart Industries, 762 F.2d 724, 726, 220 U.S.P.Q. 841, 842 (Fed. Cir. 1984)). Even further, any inherency which is applied in the context of anticipation "does not embrace probabilities or possibilities." Trintec Industries Inc. v. Top-U.S.A. Corp., 63 U.S.P.Q.2d 1597, 1601 (Fed. Cir. 2002) (holding of no express or inherent anticipation in a scenario where a catalog taught printing methods but not "creating" anything in a computer as the latter was not disclosed therein). As will be demonstrated below, Warren fails to anticipate the present invention in view of the above-stated legal standard.

Amended Claim 1 and New Claim 17 In View of Warren

In the Office Action, the Examiner rejected Claims 1-3, 13-14 and 16 under 35 U.S.C. 102(e) as being anticipated by Warren. Even though Applicant agrees with the Examiner that the Warren reference is generally directed toward a snow scooter with forward and rearward portions, Applicant submits that the Warren reference, as understood, does not disclose the present invention's specific combination of elements as recited in amended independent Claim 1 and new independent Claim 17. More particularly, Warren fails to teach or suggest the forward portion having a forward pitch angle that is angularly

adjustable and non-movably securable following angular adjustment thereof into the chosen orientation.

As was earlier mentioned, amended base Claim 1 recites a snow scooter comprising a "forward portion having ... a forward pitch angle [that] is angularly adjustable to a chosen orientation [and] non-movably securable following angular adjustment thereof into the chosen orientation".

Applicant respectfully submits that amended Claim 1 distinguishes over Warren because Warren fails to suggest anything in relation to providing a forward pitch angle that is non-movably securable following angular adjustment. For example, Figs. 5-7 of Warren show a "first means 66a for mounting runner attachment 10 to one of axles 20, 52." (Col. 3, Lines 27-28). Applicant agrees that with such a structural arrangement, the runner attachment 10 of Warren (the structural equivalent of the forward portion of Applicant's invention) may be inferred to provide a forward pitch angle that is angularly adjustable to a chosen orientation.

However, contrary to the feature provided in Applicant's invention wherein the forward pitch angle is angularly adjustable, the "means 66 mount [the] runner attachment 10 such that the runner attachments are independently pivotable about axles 20, 52". (Col. 3, Lines 11-12). In this regard, the forward pitch angle of the runner attachment 10 of Warren is

understood to be freely pivotable during movement of the snow scooter, and not selectively adjustable prior to usage of the snow scooter of Applicant's invention. Further in this regard, the "plurality of vertically spaced bores 74 [are] provided ... to facilitate mounting runner attachments 10 ... [with] ... enough clearance [such that] the scooter will glide over the surface. It will be understood that this distance may have to be greater when runner 64 is a ski and scooter 12 is for use in soft snow." (Col. 3, Lines 35-42).

Even assuming that the forward pitch angle of the runner attachment 10 of Warren were angularly adjustable in the same sense as that of Applicant's invention, Applicant submits that the forward pitch angle of the runner attachment 10 of Warren is incapable of being non-movably securable following angular adjustment thereof due to the independent pivotability of the runner attachment, as is provided by Applicant's invention as claimed in amended Claim 1 and new Claim 17. Therefore, Applicant respectfully submits that Applicant's invention distinguishes over Warren.

Conclusion

On these bases, Applicant respectfully submits that the amended base Claim 1 and proposed new base Claim 17 are novel in view of the cited prior art references and are thus allowable.

Insofar as the amended base Claim 1 and new base Claim 17 are believed to be allowable, their dependent claims are also believed to be allowable as they are further limitations of their respective independent claims.

Request for Allowance

On the basis of the foregoing, Applicant respectfully submits that all the stated grounds of rejections have been overcome, and that Claims 1-3, 5-6 and 13-25 are in condition for allowance. An early Notice of Allowance is therefore respectfully requested.

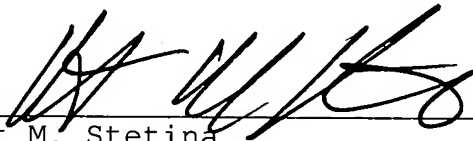
Should the Examiner have any suggestions for expediting allowance of the application, the Examiner is invited to contact Applicant's representative at the telephone number listed below.

Respectfully submitted,

Date:

4/2/04

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